



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

**December 12, 1974**

**The Honorable Kenneth Cook  
Acting Administrator, Texas Alcoholic  
Beverage Commission  
P. O. Box 13127, Capitol Station  
Austin, Texas 78711**

**Open Records Decision No. 62**

**Re: Whether the Alcoholic  
Beverage Commission  
is required, under the  
Open Records Act, to  
release information on  
the licensing of a private  
club.**

**Dear Mr. Cook:**

**The Texas Alcoholic Beverage Commission has received from a state legislator a request under the Texas Open Records Act, Article 6252-17a, section 7(a), V. T. C. S., for disclosure of certain information pertaining to a specific alcoholic beverage licensee, to wit:**

- 1. A copy of the application for license;**
- 2. A copy of the rules and by-laws governing the club; and**
- 3. The number of temporary membership cards purchased.**

**You advise that you do not hold the information requested in item 2, and therefore, we give it no further consideration.**

**You state that you are concerned that most of the information requested may be excepted from disclosure by section 3(a)(1), in that it is information deemed confidential by a specific statutory provision, Article 666-12a, section 5, Penal Auxiliary Laws. That section provides in pertinent part as follows:**

**Records of all violations of this Act by holders of licenses and permits and records introduced and made public at hearings, and decisions resulting therefrom relating to such violations shall be kept on file at the office of the Liquor Control Board at Austin, Texas,**

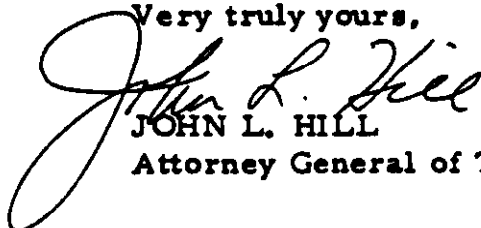
and such records shall be open to the public. The private records of any person, permittee or licensee (which shall be any records except the name, proposed location, and type of permit or license sought in any application for a permit or license or any renewal thereof, any periodic report covering the importation, distribution, or sale of any alcoholic beverages required by the Board to be regularly filed by a permittee or licensee) which are required or obtained by the Liquor Control Board or its agents in connection with any investigation, or otherwise, shall be privileged, unless introduced in evidence in a hearing before the Board or any court in this state or the United States. (Emphasis added)

We are of the opinion that the information in the application is privileged and should not be disclosed except for the name, location, and type of permit sought. That information which should be disclosed is contained in items 1, 4, 5, 6, and 7 of the application. In addition, you should disclose the type of permit, e. g., a permit for a private club with from 0-250 members.

The request is also for the number of temporary membership cards purchased. We believe that this information is privileged from disclosure under section 5 of Article 666-12a.

While sections 3(b) and 14(b) of the Open Records Act specify that the Act itself is not authority to withhold from a legislator with a legislative purpose information otherwise exempt from public disclosure, we do not believe that these provisions speak to situations involving information expressly made confidential by another statute, such as Article 666-12a, section 5, Penal Auxiliary Laws. See Attorney General Opinion H-353 (1974); Open Records Decision No. 44 (1974). Therefore, absent some authority that would affirmatively give a legislator access to more of the information requested, only the name of the applicant, the location of the club, and the type of license should be disclosed. This information may be disclosed to both legislator and citizen alike.


Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

The Honorable Kenneth Cook, page 3

APPROVED:

  
DAVID M. KENDALL, First Assistant

  
C. ROBERT HEATH, Chairman  
Opinion Committee